



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,738	07/06/2000	John Crescenti	99CV02	5018

29858 7590 12/03/2002

BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK, NY 10022

[REDACTED] EXAMINER

PARDO, THUY N

ART UNIT	PAPER NUMBER
2175	

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/610,738	CRESCENTI ET AL.	
	Examiner	Art Unit	
	Thuy Pardo	2175	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 7/6/00, 3/21/01, and 8/27/01.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 July 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6_8</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-19 are presented for examination.

Priority

2. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged and granted.

Information Disclosure Statement

3. The information disclosure statements filed on March 21, 2001 and August 27, 2001 (Paper No. 6 and 8) comply with the provisions of M.E.P. § 609. They have been placed in the application file. The information referred to therein has been considered as to the merits.

Drawings

4. The drawings filed on June 23, 2000 are acceptable for examination.

Abstract

5. Applicant is reminded of the proper format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer

is limited. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. Correction is required.

Object to claims

6. The original claims were numbered 1-20. Claim 10, however, was missing. By rule 1.126, these claims have been renumbered 1-19 in order. Claims 16 and 17 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form, or rewrite the claims in independent form. None of these claims can be examined, because the parent of these are unknown. But in the interest of the compact prosecution, assume claim 16 depended on claim 15 and claim 17 depended on claim 15.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 37 1C of this title before the invention thereof by the applicant for patent.

8. Claims 1-3, 6-9, 11, 12, 14, 15, and 17-18 are rejected under 35 U.S.C. § 102(e) as being anticipated by **Anglin** U.S. Patent No. 6,026,414.

As to claim 1, Anglin teaches a computer storage system [storage device, see the abstract] comprising:

a file processor to manage data transmission in the computer storage system [the backup server program transmits file to the storage device, 70 of fig. 3; see the abstract], the file processor operating as part of a computing device [the backup server operating as a part of the computing system 2; see fig. 1-2; col. 3, lines 50 to col. 4, lines 11];

a management component module [proxy client 10 of fig. 1 and proxy client computer 24 of fig. 2] and at least one client component [client 4 of fig. 1-2] on at least one other computing device [file server 8 of fig. 1-2] that work in conjunction with the file processor for archival type requests [40-74 of fig. 3; col. 7, lines 21-34].

As to claim 2, Anglin teaches the invention substantially as claimed as specified in claim 1 above. Anglin further teaches that the archival type requests comprise backup requests such that at least one copy of data is stored in a location other than an original location of the data [backup a file located in the file server to the storage device 22, col. 5, lines 20-43; col. 7, lines 20-34].

As to claim 3, Anglin teaches the invention substantially as claimed as specified in claim 1 above. Anglin further teaches that the archival type requests comprise retrieval requests that allows data to be requested in the computer storage system for immediate access [col. 7, lines 20-37].

As to claim 6, Anglin teaches the invention substantially as claimed as specified in claim 1 above. Anglin further teaches comprising a media component [magnetic storage media, col. 6, lines 13-16] and a client component [backup client program, 18 of fig. 1-2] that manage functions associated with a backup of the computer storage system [col. 3, lines 13-15].

As to claim 7, Anglin teaches the invention substantially as claimed, comprising:

- a file processor for directing functions associated with the archival of data over a network, the file processor being a part of a computing device [backup a file in a file server, col. 5, lines 39-43];
- a plurality of backup devices, each backup device having storage space for the archival of data [col. 5, lines 25-30];
- a plurality of media components, each media component being a part of a computing device [col. 6, lines 12-17] and being communicatively coupled to one or more of the plurality of the backup devices [col. 5, lines 60-65] and the file processor for controlling the archival functions of the backup devices in accordance with the direction from the file processor [60, 68, and 70 of fig. 3];
- a plurality of client components for generating archival type requests [col. 1, lines 32-38, 57-60; col. 2, lines 57-59]; and

wherein the file processor, in response to the archival type requests, provides direction to the plurality of media components for directing the archival functions in accordance with the archival type requests [60, 68, 70, 72, and 74 of fig. 3; col. 3, lines 12-15; col. 5, lines 20-43].

As to claim 8, all elements of this claim are rejected in the analysis of claim 1 above, and this claim is rejected on that basis.

As to claim 9, Anglin teaches the invention substantially as claimed as specified in claim 7 above. Anglin further teaches a plurality of client devices [clients, col. 1, lines 57-61]; and wherein each client component is communicatively coupled to one or more of the plurality of client devices [each client component 4 is communicatively coupled to proxy client 10 of fig. 1] and the file processor for communicating the archival type requests from the client devices to the file processor [60, 68, and 70 of fig. 3; col. 5, lines 20-25].

As to claim 11, all elements of this claim are rejected in the analysis of claim 1 above, and this claim is rejected on that basis.

As to claim 12, all elements of this claim are rejected in the analysis of claim 3 above, and this claim is rejected on that basis.

As to claim 14, Anglin teaches the invention substantially as claimed as specified in claim 7 above. Anglin further teaches a network storage media communicatively coupled to two or more of the plurality of client devices over the network [col. 1, lines 33-35, 57-58] and the plurality of backup devices [storage devices, 22 of fig. 1-2; 70 of fig. 3];

wherein at least one client device includes a local storage media [access files from client storage location, 46 of fig. 3; col. 6, lines 44-45];

wherein the archival functions include reading data from the network storage media [file read from the file server, col. 2, lines 1-12; col. 5, lines 60-65] and writing the data to one of the plurality of backup devices [transmits file to the storage device, col. 3, lines 13-15; 70 of fig. 3]; and

wherein the archival functions include reading data from the local storage media [client must read a file to be backed-up, col. 2, lines 1-12] and writing the data to one of the plurality of backup devices [transmits file to the storage device, 70 of fig. 3].

As to claim 15, all elements of this claim are rejected in the analysis of claims 1 and 7 above, and this claim is rejected on that basis.

As to claim 17, all elements of this claim are rejected in the analysis of claim 2 above, and this claim is rejected on that basis.

As to claim 18, all elements of this claim are rejected in the analysis of claim 3 above, and this claim is rejected on that basis.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4, 10, 13, 16, and 19 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Anglin** U.S. Patent No. 6,026,414, in view of **Morris** U.S. Patent No. 5,813,017.

As to claim 4, Anglin teaches the invention substantially as claimed as specified in claim 1 above. However, Anglin does not explicitly teach that the archival type requests comprise restoration requests that provide the storage system with the ability to restore data to a selected state. Morris teaches that the archival type requests comprise restoration requests that provide the storage system with the ability to restore data to a selected state [col. 1, lines 40-44; col. 5, lines 29-31; col. 14, lines 45-50].

Therefore, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to have modified the storage system of Anglin wherein the method of backup files over the network provided thereof would have incorporated the teachings of Morris especially the methodology of restoring file to a selected state; the motivation being to expand and enhance the versatility of Anglin's system by allowing protections against loss of data in the backup subsystem [see Morris, col. 1, lines 33-45].

As to claim 10, Anglin teaches the invention substantially as claimed as specified in claims 7 and 9 above. However, Anglin does not explicitly teach that at least two of the plurality of client devices run different operating systems. Morris teaches that at least two of the plurality of client devices run different operating systems [col. 4, lines 23-32].

Therefore, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to have modified the storage system of Anglin wherein the method of backup files over the network provided thereof would have incorporated the teachings of Morris especially the methodology of running different operating systems by client devices; the motivation being to expand and enhance the versatility of Anglin's system by allowing protecting against loss of data in the backup subsystem by updating files in both local storage medium and remote storage medium [see Morris, col. 1, lines 33-45].

As to claim 13, all elements of this claim are rejected in the analysis of claim 4 above, and this claim is rejected on that basis.

As to claim 16, all elements of this claim are rejected in the analysis of claim 10 above, and this claim is rejected on that basis.

As to claim 19, all elements of this claim are rejected in the analysis of claims 4 and 13 above, and this claim is rejected on that basis.

11. Claim 5 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Anglin** U.S. Patent No. 6,026,414, in view of **Jander** in “**Launching a Storage-Area Net**”.

As to claim 5, Anglin teaches the invention substantially as claimed as specified in claim 1 above. However, Anglin does not explicitly teach that a full backup of the storage system as stored and managed on a storage area network (SAN) system. Jander teaches that a full backup of the storage system as stored and managed on a storage area network (SAN) system [see 2nd paragraph of page 65 and fig. 1 of page 67]. Therefore, it would have been obvious for one skilled in the art to have modified the storage system of Anglin wherein the method of backup files over the network provided thereof would have incorporated the teachings of Jander especially the feature of storing and managing files on a SAN system; the motivation being to expand and enhance the versatility of Anglin’s system by helping net managers hurl stored data around quickly and take the load off the LAN and WAN [see Jander, page 64].

OTHER PRIOR ART MADE OF RECORD

Whiting et al. (US 5,778,395) discloses a system for backing up files from disk volumes on multiple nodes of a computer network. The Abstract and Disclosure are relevant.

Ohran et al. (US 5,812,748) discloses a method for providing rapid recovery from a network file server failure through the use of a backup computer system. The Abstract and Disclosure are relevant.

Tzelnic et al. (US 5,829,046) discloses a video file server includes an integrated cached disk array storage subsystem and a plurality of stream server computers linking the cached disk array to a data network for the transfer of video data streams. The Abstract and Disclosure are relevant.

Muschett et al. (US 6,026,437) discloses a method and system for bundling and launching hypertext files within archive files. The Abstract and Disclosure are relevant.

Perks (US 5,924,102) discloses a system for managing critical files within an information handling system. The Abstract and Disclosure are relevant.

Mayhead et al. (US 6,367,029) discloses a files server system tolerant to hardware and software failures located over a plurality of hardware nodes. The Abstract and Disclosure are relevant.

Cabrera et al. (US 6,453,325) discloses a method for backup and restoration of a database system linked to a system for filing data. The Abstract and Disclosure are relevant.

Armstead et al. (“Implementation of a Campus-wide Distributed Mass Storage Service: The Dream vs. Reality”) provides a mass storage service for long-term archival storage and short-term storage for very large files and backup services for critical data that resides on workstations and PCs. The entire article is of interest.

Eitel (“Backup and Storage Management in Distributed Heterogeneous Environments”) teaches a system for backing up and reconstructing data from clients in a distributed heterogeneous environments. The entire article is of interest.

Arneson (“Mass Storage Archiving in Network Environments”) teaches the development of effective mass storage files for archiving and backup services to multiple client computer system

with its CYBER 900 series computers via backbone and local area networks. The entire article is of interest.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy Pardo, whose telephone number is (703) 305-1091. The examiner can normally be reached Monday through Thursday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici, can be reached at (703) 305-3830.

The fax phone number for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238 (After Final Communication)

(703) 746-7239 (Official Communication)

(703) 746-7240 (For Status inquiries, draft communication)

and/or:

(703) 746-5616 (*Use this Fax#, only after approval by Examiner, for "INFORMAL" or "Draft" communication. Examiner may request that a formal/amendment be faxed directly to them on occasions.*)

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

13. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

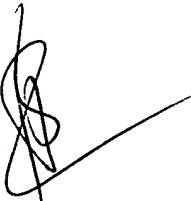
or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-5359, (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington,
VA., Sixth Floor (Receptionist).



Thuy Pardo
November 22, 2002